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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/051,342

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EXAMINER

BOSWELL, CHRISTOPHER J

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/051,342	Applicant(s) PARULSKI ET AL.	
	Examiner CHRISTOPHER BOSWELL	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-41, 43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-41, 43 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20-41, 43 and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 20, 33, and 44 have been amended to include that the purchaser is unaffiliated with the plurality of business entities. However, the specification does not describe that a purchaser, user or customer is unaffiliated with business entities, where the business entities are associated with order terminals. Contradictory to the aforementioned limitation, the specification on page 11, lines 6-11 recite the order terminal is affiliated by the user, as it can be a cell phone or PDA that enable the user to order merchandise. Therefore the new limitation appears to be new matter. Claims 21-32, 34-41 and 43 depend from the aforementioned claims and are therefore contain the same deficiencies.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20-41 and 43-44 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication Number 2002/0007340 to Islaf et al.

Islaf et al. disclose a method comprising the steps of ordering a product over from one of a plurality of network connected merchants (20), the ordering taking place over a communication network (89) using any of a plurality of network connected order terminals (paragraph 80), the plurality of order terminals each associated with a different one of a plurality of business entities (26; each business entity having a different order terminal), each of the plurality of business entities having a predefined business relationship with each of the plurality of merchants (as established by the UPF), the step of ordering the product including the steps of maintaining relationship data indicating a ranking of the predefined business relationships between each of the plurality of business entities and each of the plurality of merchants in a database coupled to the communication network (paragraph 81), presenting to a purchaser (a user within the confines of the business entity who decides utilizing the available terminal and associated catalogs) who is capable of being unaffiliated with the plurality of business entities and the plurality of merchants an order screen on one of the order terminals selected by the purchaser, the order screen

including primary purchasing information for ordering the product from the one of the plurality of network connected merchants (paragraph 80), and modifying the primary purchasing information in response to a ranking of a predefined business relationship between a business entity associated with the one of the order terminals selected by the purchaser and the one of the plurality of network connected merchants (paragraph 84), as in claim 20.

Islaf et al. also disclose the step of presenting to a second purchaser (a user within the confines of the business entity who decides utilizing the available terminal and associated catalogs) who is unaffiliated with the plurality of business entities and the plurality of merchants a second order screen on a second one of the order terminals selected by the second purchaser, the order screen including secondary purchasing information for ordering the product from the one of the plurality of network connected merchants, the secondary purchasing information being different from the primary purchasing information in response to a different ranking of a predefined business relationship between a business entity associated with the second one of the order terminals selected by the second purchaser and the one of the plurality of network connected merchants (paragraph 84, the passage refers to the buyer in the plural form, thus making it inherent that the same actions would take place with a second buyer having a different UPF than the first), as in claim 21.

Islaf et al. further disclose the step of modifying includes the step of presenting in the primary purchasing information a merchant having a highest rank predefined business relationship with the business entity associated with the one of the order terminals selected by the purchaser (paragraphs 81-85), as in claim 22, and the step of modifying includes lowering a price for the product from another network connected merchant having a higher ranking of its

predefined business relationship with the business entity associated with the one of the order terminals selected by the purchaser than the one of the plurality of network connected merchants (paragraph 67), as in claim 23, as well as the step of excluding one or more of the plurality of merchants from the purchasing information presented to the purchaser based on a ranking of predefined business relationships between the one or more of the plurality of merchants and the business entity associated with the one of the order terminals selected by the purchaser (paragraph 87; where the UPF and the price configurator are capable of excluding merchants), as in claim 24.

Islaf et al. additionally disclose the steps of presenting different types of products on the order screen for the purchaser to select (paragraph 82), and including or not including two or more of the plurality of merchants who sell products of a type selected by the purchaser on the order screen (paragraph 84; depending on the predetermined relationship, the merchant may or may not be included in the seller environment), wherein the two or more merchants are included or not included based on rankings of their predefined business relationship with the business entity associated with the one of the order terminals selected by the purchaser (paragraph 84; depending on the predetermined relationship, the merchant may or may not be included in the seller environment), as in claim 25, further comprising the step of presenting one of the two or more merchants in a preferred position on the order screen based on it having a higher ranking predefined business relationship than the other ones of the two or more merchants (paragraph 88; which merchant has the better parameters will be presented first), as in claim 26.

Islaf et al. also disclose the order terminal is a personal computer (paragraph 83; the computer which utilizes the GUI), as in claim 27, and the plurality of order terminals is each

associated with one of the a plurality of business entities based on being owned or leased by a business entity (the computer used to access the selling platform by the merchant), as in claims 28 and 29, as well as a potential ranking of the predefined business relationships include at least two levels (the levels are determined on a hierarchical permissioning system), as in claim 30, where the step of maintaining data is performed by a service manager using a table in the database (paragraph 73), as in claim 31, and the step of including or not including a purchasing convenience feature in the purchasing information in response to a ranking of a predefined business relationship between the business entity associated with the one of the order terminals selected by the purchaser and the one of the plurality of network connected merchants (paragraph 61), as in claim 32, and a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform the method steps of claim 20 (the server; paragraph 83), as in claim 43.

Islaf et al. further disclose a system for ordering products from a plurality of merchants over a network, comprising a plurality of order terminals (paragraph 80), capable of being accessible to the public, connected to the network (89), the order terminals each associated with a different one of a plurality of business entities (26; each business entity having a different order terminal), and each of the order terminals configured to block a different subset of the plurality of merchants from presenting their pricing information depending on which business entity the each of the order terminals is associated with (paragraph 87; where the UPF and the price configurator are capable of blocking merchants), a database (PRMS) connected to the network for storing rankings of business relationships between each of the plurality of business entities

and each of the plurality of merchants (paragraph 61), the order terminals each comprising an order screen (paragraph 80) for presenting product selection information to a purchaser (a user within the confines of the business entity who decides utilizing the available terminal and associated catalogs), who is capable of not being affiliated with either the plurality of business entities or the plurality of merchants, and for presenting merchant and pricing information for a product selected by the purchaser (paragraph 83), and wherein a first one of the order terminals presents two or more merchants and their pricing information on its order screen in response to the purchaser selecting the product at the first order terminal (paragraph 82), the two or more merchants selected in response to a ranking in the database of a business relationship between the two or more merchants and a business entity associated with the first order terminal (paragraph 84; depending on the predetermined relationship, the merchant may or may not be included in the seller environment), and wherein a second one of the order terminals blocks at least one of the two or more merchants from presenting its pricing information on its order screen in response to the purchaser selecting the product at the second order terminal (paragraph 84; depending on the predetermined relationship, the merchant may or may not be included in the seller environment), the at least one of the two or more merchants blocked in response to a ranking in the database of a business relationship between the at least one of the two or more merchants and a business entity associated with the second order terminal (paragraph 87; where the UPF and the price configurator are capable of excluding merchants), as in claim 33.

Islaf et al. additionally disclose a second order screen connected to the second order terminal for presenting second merchant and pricing information for the product after being selected by a second purchaser, wherein merchants that are included in the second merchant and

pricing information are different than the two or more merchants and their pricing information in response to the ranking in the database of the business relationship between the merchants that are included in the second merchant and pricing information and a business entity associated with the second order terminal (paragraph 84, the passage refers to the buyer in the plural form, thus making it inherent that the same actions would take place with a second buyer having a different UPF than the first), as in claim 34, and where the merchant and pricing information for the product selected by the purchaser excludes merchants based on low rankings of their business relationship with the business entity associated with the first order terminal (paragraph 87; where the UPF and the price configurator are capable of excluding merchants), as in claim 35.

Islaf et al. also disclose the merchant and pricing information for the product selected by the purchaser includes lower prices for merchants in response to a higher ranking of their business relationships with the business entity associated with the first order terminal (paragraph 67), as in claim 36, and the merchant and pricing information is formatted so that merchants having a higher priority business relationship with the business entity associated with the first order terminal are listed first (paragraph 61), as in claim 37, as well as the order terminal is a publicly accessible catalog kiosk (paragraph 83; the computer that utilizes the GUI), as in claim 38, and where the plurality of order terminals is each associated with one of the a plurality of business entities based on being owned or leased by a business entity (the computer used to access the selling platform by the merchant), as in claims 39 and 40, and a service manager for maintaining the database (paragraph 73), as in claim 41.

Islaf et al. further disclose a method comprising a business entity (26) providing a network (89) connected order terminal (paragraph 80) accessible by a purchaser (a user within the confines of the business entity who decides utilizing the available terminal and associated catalogs) capable of being unaffiliated with the business entity for ordering a product from one of a plurality of selected merchants (20) over the network, the network including a connected business relationship database (PRMS), the business relationship database including data identifying ranked business relationships between the business entity and the plurality of merchants (paragraphs 22 and 61), and presenting to the purchaser an order screen (paragraph 80) on the network connected order terminal, the order screen comprising purchasing information for ordering the product (paragraph 88) and a subset of the plurality of merchants (paragraph 88), the subset including at least one merchant that offers the product for sale (paragraph 88) and excluding at least one other merchant that also offers the product for sale but is a hostile competitor of the business entity (the UPF and the price configurator are capable of excluding merchants), as in claim 44.

Response to Arguments

Applicant's arguments filed January 15, 2008 have been fully considered but they are not persuasive. In regards to the argument that Islaf et al. does not disclose that either the business entity or the merchant have sole control over the price the merchandise is presented, the examiner respectfully disagrees. Islaf et al. discloses of a price configurator which works in conjunction with the PRMS to configure delivered prices of products, and to target these offerings in such a way as to reflect individual selling and buying preferences. The price

configurator combines relationship and mathematics as a result of an algorithm interacting with the buyer-specific profiles module and seller-specific logistics rate tables module in order to present targeted offers to buyers via the Internet or other network, and thus the price of the product is configured by a relationship between the buyer and seller, allowing either to choose the best price available.

Regarding the argument that Isaf et al. does not disclose a business entity, the examiner respectfully disagrees. Though the exact words “business entity” do not appear in the disclosure of Isaf et al., one would recognize that businesses such as food manufacturers, retailers, food service distributors and importer/ wholesalers are all forms of businesses that form entities, as disclosed in paragraph 6.

In regards to the amendment reciting that a purchaser is not affiliated with the business entity or the merchant, the examiner states the limitation is presenting to a person an order screen. The name of the person, i.e. unaffiliated purchaser, does not functionally impact the limitations a claimed and thus this difference is considered non-functional descriptive material.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BOSWELL whose telephone number is (571)272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Boswell
Examiner
Art Unit 3673

/Patricia L Engle/
Supervisory Patent Examiner,
Art Unit 3673

CJB /cb/
May 8, 2008